IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Civil Transfer Application No. 16 of 2006

Smt. Neelam Rawat, D/O Shri Dhiraj Singh Negi, R/O C/O Shri Krit Ram Thapliyal, 103/3 Vidya Vihar, Phase-2, Kargi Road, Dehradun.

……. Applicant.

Versus

1. State of Uttaranchal, through Secretary Home, Secretariat, Dehradun.
2. Arun Rawat, S/O Shri Trilok Singh Rawat, R/O Village Maanpur, Post Office Kotdwar, District Pauri Garhwal.

….Respondents.

Sri R.P. Nautiyal, learned counsel for the petitioner.
Sri B.P. Nautiyal, learned counsel for the respondent No.2.

Dated July 24, 2007.

Hon'ble B.S. Verma, J.

This application under Section 24 of the Code of Civil Procedure has been moved by the applicant for transfer of Matrimonial Case No. 24 of 2006, Arun Rawat Vs. Smt. Neelam Rawat under Section 13 of the Hindu Marriage Act, presently pending before the Family Court Pauri Garhwal to Family Court Dehradun.

It is alleged that the respondent no. 2 is the husband of the applicant. The applicant resides at Dehradun, while the respondent no.2 is a resident of Pauri Garhwal. An F.I.R. was lodged by the father of the applicant with the police regarding the cruelty in connection with demand for dowry against the respondent no. 2 and his other family members and a case was registered at the Police Station Doiwala, District Dehradun, at Crime No. 155 of 2005 under Section 498-A of the I.P.C. The validity of the F.I.R. was questioned before the High Court and an interim order was passed in favour of the respondent no. 2 and his other family members with regard to their arrest. The charge-sheet

was submitted in the Court of Magistrate under Sections 498-A, 506 I.P.C. and Section 3/4 Dowry Prohibition Act. Consequently, a Criminal Case No. 342 of 2006 has been registered in the Court of Special Judicial Magistrate, Dehradun. Thereafter the applicant moved an application under Section 125 Cr. P. C. in the court of Principal Judge, Family Court Dehradun and the case is still pending in that court. Even on 24.5.2006 the applicant moved an application under Section 406 I.P.C. before the Magistrate at Dehradun and on the direction of the Magistrate, an FIR was registered against the respondent no.2. Subsequently, the respondent no. 2 filed a divorce petition against the application in the Family Court Pauri Garhwal, which was registered as Matrimonial Case No. 24 of 2006, Arun Rawat Vs. Smt. Neelam Rawat.

In this case, the respondent no. 2 had sought time to file counter affidavit on 24.5.2007 but no counter affidavit was filed. Again on 19-6-2007, one-week time to file counter affidavit was granted to the respondent, but even then no counter affidavit has been filed in this case till date though the respondent no. 2 has been duly represented though counsel.

In the divorce petition, it is mentioned that the marriage between the applicant and respondent no. 2 was solemnized in Dehradun on 12-6-2005 and that at present, she has been residing in Dehradun.

In the above circumstances of the case coupled with the fact that the marriage between the parties had been solemnized in Dehradun, it is a fit case for transfer of the Divorce Petition No. 24 of 2006 pending before the Judge Family Court Pauri Garhwal to the court of Family Court at Dehradun.

The application is allowed. Matrimonial Case (Divorce Petition) No. 24 of 2006, Sri Arun Rawat Vs. Smt.

Neelam Rawat pending before the Family Court Pauri Garhwal is transferred to the court of Principal Judge, Family Court, Dehradun, for disposal in accordance with law. The Judge, Family Court Dehradun is directed to conclude the proceeding expeditiously preferably within a period of six months, as has been provided under the Act.

Interim order dated 13-9-2006 passed by this Court is vacated.

(B.S. Verma, J.)

RCP